114.3 CMR 50.00: HOME HEALTH SERVICES

Section

50.01: General Provisions

(1) Scope, Purpose and Effective Date. 114.3 CMR 50.00 will govern the determination of rates of payment to be used by all governmental units for home health services provided to publicly-aided patients. 114.3 CMR 50.00 will be effective November 1, 2004. The rates set forth in 114.3 CMR 50.00 also apply to individuals covered by M.G.L. c. 152 (the Workers Compensation Act).

(2) Coverage. Except as provided otherwise, 114.3 CMR 50.00 and the rates of payment contained herein will apply to home health services rendered by eligible providers to publicly-aided individuals. Separate rates are contained applying to the following situations:

(a) The eligible provider bills as an individual practitioner for professional services rendered, and the services are not covered by a facility rate.

(b) The eligible provider bills as a provider agency and employs, either through contractual agreement or salary, qualified professional who do not bill independently for professional services rendered and whose services are not covered by a facility rate.

The allowable fees established pursuant to 114.3 CMR 50.00 for services provided to publicly-aided individuals will apply to all home health services, as defined in 114.3 CMR 50.02, regardless of the type of program under which the governmental unit is purchasing the services. The allowable fees will be full compensation for the home health services

rendered, including but not limited to administrative or supervisory duties and costs in connection with service provision.

(3) Administrative Information Bulletins. The Division may, from time to time, issue administrative information bulletins to clarify its policy on substantive provisions of 114.3 CMR 50.00. In addition, the Division may issue administrative information bulletins that specify the information and documentation necessary to implement 114.3 CMR 50.00. Such information and documentation could include changes to cost reporting deadlines and the cost report itself.

(4) Disclaimer of Authorization of Services. 114.3 CMR 50.00 is not authorization for or approval of the substantive services, or lengths of time, for which rates are determined pursuant to 114.3 CMR 50.00. Governmental units that purchase services from eligible providers are responsible for the definition, authorization, and approval of services and lengths of time provided to publicly-aided individuals. Information concerning substantive program requirements must be obtained from purchasing governmental units.

(5) Authority. 114.3 CMR 50.00 is adopted pursuant to M.G.L. c. 118G.

50.02: General Definitions

As used in 114.3 CMR 50.00, terms will have the meanings set forth in 114.3 CMR 50.02.

Agency Direct Nursing Compensation will mean the total amount a provider agency paid to, or, on behalf of a registered nurse or a licensed practical nurse as salary, wage and benefits, including the employer's share of statutory and non-statutory benefits.

Continuous Skilled Nursing Care will mean the provision of skilled nursing services of at least two hours in duration in the home by eligible providers.

Direct Care Nurse will mean an agency nurse who provides hands-on continuous skilled nursing care to publicly-aided individuals.

Division. The Division of Health Care Finance and Policy established under M.G.L. c.118G.

Eligible Provider will mean an individual practitioner or an organization certified as a provider of services under the Medicare Health Insurance Program for the Aged (Title

XVIII) and meets such conditions of participation as have been or may be adopted from time to time by a governmental unit purchasing home health services.

Governmental Unit. The Commonwealth of Massachusetts and any department, agency, board, commission, division or political subdivision of the Commonwealth.

Group Therapy. Group therapy for the restorative therapies is not a home health service. Group therapy is reimbursed under 114.3 CMR 39.00.

Home Health Agency. An agency that provides health services in a home setting. These services include skilled nursing, physical therapy, occupational therapy, speech therapy, medical social work and home health aide services.

Home Health Aide Service. The provision of personal care in the home, under the supervision of a registered professional nurse, or, if appropriate, a physical, speech or occupational therapist. Home Health Aide Services are performed by trained personnel who assist clients in following physicians' instructions and established plans of care. Additional services include, but are not limited to, assisting the patient with activities of daily living, exercising, taking medications ordered by a physician which are ordinarily self-administered, assisting the patient with necessary self-help skills, and reporting to the professional supervisor any changes in the patient's condition or family situation.

Home Health Services. Health services provided in the home. These services include skilled nursing, continuous skilled nursing, physical therapy, occupational therapy, speech therapy, medical social work and home health aide services.

Home Visit. A morbidity visit rendered in the home by a qualified employee such as a nurse, a licensed practical therapist or supervised physical therapy assistant or student, an occupational therapist or a supervised certified occupational therapy assistant or student, a medical social worker or home health aide.

Individual Practitioner will mean a registered nurse (RN) or licensed practical nurse (LPN), who directly provides authorized continuous skilled nursing services and who bills independently for professional services rendered.

Interpreter Costs. The necessary costs associated with providing translation services to non-English speaking patients.

Merged Agency. An eligible provider which has merged with one or more other eligible providers to become a single entity.

Minor Medical Supplies. Those items which are either frequently furnished to patients or are utilized individually in small quantities. Such items will not be expected to be specifically identified in the physician's plan of treatment and no separate charge is made for them. Examples of minor medical supplies include cotton balls, alcohol prep, bandages and surgical sponges. Documentation for the cost of these supplies must be maintained separately from billable supplies.

New Agency. A certified agency, which has not previously provided home health services for one year or more as an eligible provider under 114.3 CMR 50.00.

Non-Reimbursable Costs. Costs associated with programs not covered for reimbursement under the Medicare Health Insurance Program for the Aged (Title XVIII) and Title XIX of the Social Security Act or under other agreements by the purchasing agency. These services may be reimbursable by other programs.

Normal Work Day. The number of hours in the normal workweek reported on the most recent cost report divided by five. It is not applicable to the providers of continuous skilled nursing care.

Nursing Service. Service provided by a professional Registered Nurse, Licensed Practical Nurse or a nursing student under the supervision of a Registered Nurse, including, but not limited to the following: evaluating nursing care needs; developing and implementing a nursing care plan; providing services that require specialized skills; observing signs and symptoms, reporting to the physician; initiating nursing procedures; giving treatments and medications ordered by the physician; teaching the patient and family. May also include supervising other personnel.

Occupational Therapy. Service provided by a registered occupational therapist (O.T.R.), a certified occupational therapy assistant (COTA) or an occupational therapy student supervised by a registered occupational therapist including: evaluating patient's level of function; applying diagnostic and prognostic procedures; teaching activities of daily living; observing and reporting to the physician; instructing the patient, family and health team personnel. May also include supervising other personnel.

Office Visit. A health promotion or therapeutic visit rendered in a home health agency's office.

Physical Therapy. Service provided by a registered physical therapist (R.P.T.); a physical therapy assistant (P.T.A.) or a physical therapy student supervised by a registered

physical therapist including: evaluating patient care needs; treating patient with active and passive exercises; using specialized equipment such as packs, vibrators, etc; observing signs and reporting symptoms to the physician; instructing patient, family and health team personnel in the use of braces, other equipment and modalities. May also include supervising other personnel.

Provider Agency will mean a partnership, corporation, or other entity, other than an individual, which indirectly provides authorized continuous skilled nursing services rendered by a registered nurse or licensed practical nurse.

Publicly Aided Individual. A person who receives health care and services for which a governmental unit is in whole or part liable under a statutory program of public assistance.

Reasonable Costs. Those reasonable and necessary reimbursable costs incurred by an eligible provider in provision of home health services to publicly aided individuals, subject to the requirements and limitations of this chapter. In determining the reasonableness of costs, the Division may consider the particular services offered, the introduction of efficiency measures, the requirements for staffing, and the costs of providing comparable service.

Speech Therapy. Service provided by a qualified speech therapist, a speech therapy assistant or a speech therapy student supervised by a qualified speech therapist including: evaluating patient care needs; providing rehabilitating services for speech and language disorder; observing and reporting to the physician; instructing patient, family and health care team personnel. May also include supervising other personnel.

Security/Escorts. The necessary costs of providing security services to direct care personnel in the performance of a reimbursable home health service to a client in his/her residence.

Therapeutic or Morbidity Home Visit. A home visit rendered by an eligible provider to an individual and/or family for the purpose of treating one or more diagnosed illnesses or disabilities.

Total Home Health Aide Hours. Total number of hours spent in therapeutic and morbidity home visits by all home health aides, but not including visits associated with non-reimbursable costs and visits termed "not home, not found."

Total Nursing Visits. All therapeutic and morbidity home visits provided by all nurses, licensed practical nurses and nursing students but not including visits associated with

non-reimbursable costs, visits termed "not home, not found," supervisory observation in the home and office visits.

Total Occupational Therapy Visits. All therapeutic and morbidity home visits rendered by all occupational therapists, certified occupational therapy assistants and occupational therapy students, but not including visits associated with non-reimbursable costs, visits termed "not home, not found," supervisory observation in the home and office visits.

Total Physical Therapy Visits. All therapeutic and morbidity home visits rendered by all physical therapists, physical therapy assistants and physical therapy students, but not including visits associated with non-reimbursable costs, visits termed "not home, not found," supervisory observation in the home, and office visits.

Visit. A visit is equivalent to eight units of fifteen minutes intervals.

Weekdays will mean the hours from 7:00 A.M. to 3:00 P.M., Monday through Friday.

Weekends, and Nights.

(a) Weekends (Wknds.) will mean the hours from 3:00 P.M., Friday, to 7:00 A.M., Monday.

(b) Nights (Nts.) will mean the hours from 3:00 P.M. to 7:00 A.M., Monday through Friday.

(c) Holidays - All official Commonwealth of Massachusetts holidays.

New Year's Day
Martin Luther King Day
Washington's Birthday
Patriot's Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

50.03: General Rate Provisions

(1) General Rate Provisions. Rates of payment for authorized home health services to which 114.3 CMR 50.00 applies will be the lower of:

(a) The eligible provider's usual fee to patients other than publicly-aided patients; or

(b) The schedule of rates set forth in 114.3 CMR 50.04.

(2) Individual Consideration. Rates of payment to an eligible provider of continuous skilled nursing care for procedures not listed herein or authorized procedures performed in exceptional circumstances will be determined on an Individual Consideration (I.C.) basis by the governmental unit. Eligible and interested Medicaid providers must apply for Prior Authorization in accordance with the Division of Medical Assistance 130 CMR 403.000 and 418.000. Requests for prior approval for authorized I.C. procedures will be in accordance with the following criteria:

(a) Time required to perform the service;

(b) Degree of skill required;

(c) Severity and complexity of the patient's disorder or disability;

(d) Policies, procedures and practices of other third party purchasers of care, governmental and private;

(e) Prevailing continuous skilled nursing ethics and accepted customs;

(f) Such other standards and criteria as may be adopted by other governmental purchasing agencies.

Purchasing agencies will maintain records of the costs of services provided under this provision and the medical conditions which require intervention under this provision in such a way that this information can be retrieved separate from data for other continuous skilled nursing services.

50.04: Rates of Payment

(1) Rates for Home Health Services, except Continuous Skilled Nursing Care in the home.

Code	Rate	Description
G0154	$83.17/visit	Services of Skilled Nurse in home setting
G0154	$27.72/visit	Services of Skilled Nurse (Office visit)
G0156	$5.99/15 minutes	Services of Home Health Aide in the home
G0151	$60.03/visit	Services of Physical Therapist in the home
G0153	$64.06/visit	Services of Speech Therapist in the home
G0152	$62.58/visit	Services of Occupational Therapist in the home

(2) Rates for Continuous Skilled Nursing Care

(1) Single Patient, per straight-time hour.

		Rates per 15 minutes		
Code	Modifier	Agency	Individual	Description

			Practitioner	
T1002		$10.32	$8.97	RN Services, Weekday
T1002	UJ	$11.15	$9.69	RN Services, Nights
T1002	TV	$15.48	$13.46	RN Services, Holidays
T1003		$8.12	$7.10	LPN Services, Weekday
T1003	UJ	$8.77	$7.67	LPN Services, Nights
T1003	TV	$12.18	$10.65	LPN Services, Holidays

Weekend rates are the same as Night rates.

(2) Multiple-Patient Nursing.

(a) Two publicly-aided patients, per straight-time hour. When only one of the patients is publicly-aided, the fee for services to the publicly-aided patient will be _ of the appropriate rate listed below.

			Rates per 15 minutes	
Code	Modifier	Agency	Individual Practitioner	Description
T1002	T T	$15.48	$13.46	RN Services, Weekday
T1002	U1	$16.71	$14.54	RN Services, Nights
T1002	TT TV	$23.22	$20.19	RN Services, Holidays
T1003	T T	$12.18	$10.65	LPN Services, Weekday
T1003	U1	$13.14	$11.50	LPN Services, Nights
T1003	TT TV	$18.27	$15.98	LPN Services, Holidays

Weekend rates are the same as Night rates.

(b) Three publicly-aided patients, per straight-time hour. When only one of the patients is publicly-aided, the fee for services to the publicly-aided patient will be one-third of the appropriate rate listed below. When two of the patients are publicly aided, the fee for services to the publicly-aided patients will be two-thirds of the appropriate rate listed below.)

		Rates per 15 minutes		
Code	Modifier	Agency	Individual Practitioner	Description
T1002	U2	$18.06	$15.70	RN Services, Weekday
T1002	U3	$19.50	$16.96	RN Services, Nights
T1002	U2 TV	$27.08	$23.56	RN Services, Holidays
T1003	U2	$14.21	$12.43	LPN Services, Weekday

T1003	U3	$15.33	$13.42	LPN Services, Nights
T1003	U2 TV	$21.31	$18.65	LPN Services, Holidays

Weekend rates are the same as Night rates.

(3) Overtime

		Rates per 15 minutes		
Code	Modifier	Agency	Individual Practitioner	Description
T1002	TU	$15.48	$13.46	RN Services, Weekday
T1002	U4	$16.71	$14.54	RN Services, Nights
T1002	TU TV	$23.22	$20.19	RN Services, Holidays
T1003	TU	$12.18	$10.65	LPN Services, Weekday
T1003	U4	$13.14	$11.50	LPN Services, Nights
T1003	TU TV	$18.27	$15.98	LPN Services, Holidays

Weekend rates are the same as Night rates.

50.05: Agency Direct Nursing

(a) Agencies are required to ensure that the direct care nurses receive a minimum level of compensation, including the employer's share of statutory and voluntary employee benefits. The total amount of direct nursing compensation should equal at least the following:

∑(total number of annual billed hours for a specific procedure code x the minimum nursing compensation value for the specific procedure code), as noted below

Minimum Nursing Compensation Values

(1) Single-Patient Nursing

Code	Modifier	Minimum Compensation, per 15 minutes	Description
T1002		$7.63	RN Services, Weekday
T1002	UJ	$8.24	RN Services, Nights
T1002	TV	$11.44	RN Services, Holidays
T1003		$6.09	LPN Services, Weekday
T1003	UJ	$6.57	LPN Services, Nights
T1003	TV	$9.13	LPN Services, Holidays

Weekend rates are the same as Night rates.

(2) Multiple-Patient Nursing (2 patients)

Code	Modifier	Minimum	Description

		Compensation, per 15 minutes	
T1002	T T	$11.44	RN Services, Weekday
T1002	U1	$12.36	RN Services, Nights
T1002	TT TV	$17.17	RN Services, Holidays
T1003	T T	$9.13	LPN Services, Weekday
T1003	U1	$9.86	LPN Services, Nights
T1003	TT TV	$13.69	LPN Services, Holidays

Weekend rates are the same as Night rates.

(3) Multiple-Patient Nursing (3 patients)

Code	Modifier	Minimum Compensation, per 15 minutes	Description
T1002	U2	$13.35	RN Services, Weekday
T1002	U3	$14.42	RN Services, Nights
T1002	U2 TV	$20.03	RN Services, Holidays
T1003	U2	$10.65	LPN Services, Weekday
T1003	U3	$11.50	LPN Services, Nights
T1003	U2 TV	$15.98	LPN Services, Holidays

Weekend rates are the same as Night rates.

(b) If the Division determines a provider agency is not in compliance with the requirements of 114.3 CMR 50.05, the Division reserves the right to allow the agency to pay the direct care nurses the amount owed them through a special payroll, or reduce the rates by the amount of the compensation the provider failed to pay to the direct care nurses.

50.06: Provisions for New Agencies

(1) Any new agency must submit the following information:
   (a) Medicare (CMS) letter of certification
   (b) Letter stating the charges to the general public

(2) Rate of Payment. A new agency's rate of payment will be determined according to 114.3 CMR 50.04(1) or 114.3 CMR 50.04(2).

50.07: Administrative Adjustment

(1) A certified home health agency may apply for a change in rate(s) of payment due to costs associated with providing interpreter and security/escort services as defined in 114.3 CMR 50.02.

(2) Administrative adjustment may be provided on a prospective basis only.

(3) Administrative relief will consist of an adjustment to the rate calculated by dividing the costs from the most recently filed and reviewed cost report by the number of service units reported for that corresponding period. The costs allowed will be limited to reasonable costs as defined in 114.3 CMR 50.02.

50.08: Transitional Adjustment

(1) Applicability: The Division will provide temporary adjustments to eligible certified home health agencies that provide home health agency services to a significant number of MassHealth members in a particular county. This provision is not applicable to the providers of continuous skilled nursing care alone.

(2) Eligibility Criteria: In order to apply for a Transitional Adjustment, the agency must:

(a) provide at least 25% of the total MassHealth Nursing Care units in a Massachusetts County; and/or

(b) provide at least 25% of the total MassHealth Home Health Aide units in a Massachusetts County;

(c) be a non-profit organization, including but not limited to corporations organized under M.G.L. 180 or under M.G.L. c. 156B and granted a 501(c)(3) tax exemption; and

(d) provide evidence of a currently significantly impaired financial condition and demonstrate a limited availability of financial resources, including funds from parent companies and/or related parties.

(e) The Division of Health Care Finance and Policy will identify certified home health agencies that meet the criteria outlined in 114.3 CMR 50.08(2)(a) or (b) annually. The Division will use the most recent full calendar year paid claims data provided by the Division of Medical Assistance to determine the percent of units provided by agencies in each County.

(3) Application and Approval Process:

(a) To apply for an adjustment, the agency must be in compliance with the reporting requirements set forth in 114.3 CMR 50.09. In addition, it must submit the following:

1. current year's operating budget
2. any additional documentation providing evidence of a current significantly impaired financial condition and a limited availability of financial resources;

3. a financial plan detailing the agency's actions and goals in its effort to improve its financial condition.

(b) The Division of Health Care Finance and Policy will review each agency's application to determine if an agency meets the eligibility criteria set forth in 114.3 CMR 50.08(2). The Division will notify all applicants of its determination.

(4) Add-on Amounts: Providers that qualify for the Transitional Adjustment for Nursing Service will receive a rate add-on to the Nursing Service rate. Providers that qualify for the Transitional Adjustment for Home Health Aide Services will receive a rate add-on to the Home Health Aide rate. The sum of the Transitional Adjustment and the class rate cited in 114.3 CMR 50.04(1) can not exceed the cost per unit from the agency's most recently filed cost report.

(a) An agency that provided over 25% of the MassHealth units in a Massachusetts County may receive a Transitional Adjustment of no more than 5% of the Nursing Service or Home Health Aide class rate enumerated in 114.3 CMR 50.04(1).

(5) Effective dates: The effective date of the Transitional Add-ons will be November 1 of each year. When notifying an agency that a Transitional Add-on has been approved, the Division will indicate the date on which the Transitional Add-on will expire. No Transitional Add-on may continue for more that one (1) year without a new application submitted by the agency.

50.09: Filing and Reporting Requirements

(1) Required Reports. Each eligible provider agency or home health agency must file the following information in accordance with the schedule outlined in 50.09(2):

(a) The Nursing Service Cost Report for the agency's most recent fiscal year;
(b) A paper copy of the home health agency cost report (HCFA 1728) in which the Continuous Skilled Nursing hours and costs are separated from the Home Health skilled nursing visits, costs and other statistics, and any supplemental schedules as supplied and/or required by the Division.
(c) Financial statements certified by a certified public accountant. In the absence of certified statements, the agency may submit uncertified statements or a Balance Sheet and Operating Statement prepared by the agency.
(d) Agencies that apply for an Administrative Adjustment under the provisions of 114.3 CMR 50.07 must submit separate documentation of costs associated with security actions and/or eligible provider agency.

(2) Filing Deadlines. Each eligible provider agency or home health agency must file the required documents cited in 50.09(1) on April 1 of each year. The Division may revise this due date by issuing an Administrative Bulletin. Agencies will have a minimum of 45 days notice of any changed due date.

(3) Examination of Records. Each provider agency will make available all records relating to its operation for audit, if requested by the Division and according to the requirements stated in 114.3 CMR 50.09(7)

(4) Accurate Data. All reports, schedules, additional information, books and records which are filed or made available to the Division, will be certified under pains and penalties of perjury as true, correct, and accurate by the Executive Director or Financial Officer of the agency.

(5) Agency Non-Compliance. Failure by an eligible agency provider to submit accurate and timely information in compliance with the provisions of 114.3 CMR 50.09(2), may result in a penalty. The rates will be reduced for an amount of time equal to the period of non-compliance. The penalty will accrue at a rate of 5% per month of non-compliance. However, the penalty will not exceed a cumulative total of 50%. If a provider is not in full compliance upon the adoption of new rates, at no time can the new rates exceed the penalty-adjusted current rate. If the new rate were to exceed the penalty-adjusted current rate, the agency's use of the new rate will be delayed until full compliance with filing requirements. If, on the other hand, the new rate is less than the rate currently in effect, then the new rate will become effective immediately and potentially subject to further penalty.

(6) Contracts. Each eligible agency provider who contracts for home health services will file with the Division, a copy of all contracts which it has entered into, or enters into, after the effective date of 114.3 CMR 50.00.

(7) Field Audit. The Division will determine if a field audit is necessary to substantiate information contained in the cost report. The Division will make reasonable attempts to schedule an audit at the mutual convenience of both parties.

50.10: Severability of Provisions of 114.3 CMR 50.00

The provisions of 114.3 CMR 50.00 are hereby declared to be severable and if any such provisions or the application of such provisions to any person or circumstances will be held to be invalid or unconstitutional, such invalidity will not be construed to affect the validity or constitutionality of any remaining provisions to eligible providers or circumstances other than those held invalid.

REGULATORY AUTHORITY

114.3 CMR 50.00: M.G.L. c118G.